

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VICTORIA JEONG SWEENEY

Plaintiff,

V.

ANDERSON DOS SANTOS AND SAME
DAY DELIVERY LLC,

Defendants.

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Civil Action No. 5:22-cv-01150

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

COME NOW Defendants Anderson Dos Santos and Same Day Delivery LLC, and file their Notice of Removal, and would respectfully show unto the Court as follows:

PROCEDURAL HISTORY

1. Plaintiffs filed suit in Cause No. 2022CI18343, in the 407th Judicial District Court of Bexar County, Texas on September 19, 2022.

2. Defendant Same Day Delivery LLC was served with Plaintiff's Original Petition on September 30, 2022. Plaintiff filed a Motion for Substituted Service on October 13, 2022. Defendants Same Day Delivery LLC and Anderson Dos Santos filed a timely answer on October 19, 2022.

3. Defendants Anderson Dos Santos and Same Day Delivery LLC have filed this Notice of Removal within the time period required by 28 U.S.C. § 1446(b).

NATURE OF THE SUIT

4. Plaintiff alleges that on or about November 2, 2020, she sustained damages as a result of a motor vehicle accident that occurred in San Antonio, Bexar County, Texas.

5. According to Plaintiff's Original Petition, Plaintiff is a citizen of the State of Texas who resides in Bexar County, Texas. *See* Plaintiff's Original Petition, paragraph 2.1.

6. At all relevant times, Defendant Anderson Does Santos was a citizen of the State of Georgia, residing at 2610 Webster Drive NW, Acworth Georgia. *See* Plaintiff's Original Petition, paragraph 2.2.

7. At all relevant times, Same Day Delivery LLC was a limited liability company with its principal place of business in the State of Georgia. *See* Plaintiff's Original Petition, paragraph 2.3.

8. Defendant Same Day Delivery LLC is a limited liability company incorporated under the laws of the State of Georgia. *See* Exhibit A, Carbin Huggins' Affidavit.

BASIS FOR REMOVAL

9. Removal is proper because there is complete diversity of citizenship between Plaintiff and Defendants.

10. Plaintiff is an individual who reside in Bexar County, Texas. *See* Plaintiff's Original Petition, paragraph 2.1.

11. Defendant Anderson Does Santos is an individual who at the time the lawsuit was filed, and at the time of the filing of Defendants' Notice of Removal, was domiciled in the State of Georgia, residing at 2610 Webster Drive NW, Acworth, Georgia. *See* Plaintiff's Original Petition, paragraph 2.2. At all relevant times, Defendant Anderson Does Santos established his citizenship and residence in the State of Georgia where he currently lives. *See* Plaintiff's Original Petition, paragraph 2.2.

12. Defendant Same Day Delivery LLC is a company incorporated under the laws of the State of Georgia, whose principal place of business has at all relevant times been maintained in the State of Georgia. *See* Exhibit A, Carbin Huggins' Affidavit.

13. As stated in Plaintiff's Original Petition, the amount in controversy exceeds \$1,000,000, exclusive of interests, costs, and attorneys' fees. *See* Plaintiff's Original Petition, paragraph 3.1.

VENUE AND JURISDICTION

14. Venue for this removal is proper in this division under 28 U.S.C. §1441(a) because this division embraces the place in which the removed action has been pending.

15. This Court has jurisdiction of this action by virtue of the provisions of 28 U.S.C. § 1332 in that this is a case of diversity of citizenship between the parties the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

DEFENDANTS' NOTICE OF REMOVAL IS PROCEDURALLY CORRECT

16. Defendants have attached to this notice all process, pleadings and orders filed in the state court action as required by 28 U.S.C. §1446(a). (*See Exhibit B*, Index of Matters Being Filed)

JURY DEMAND

17. Both Plaintiff and Defendants made a demand for a jury trial in State District Court.

NOTICE TO STATE COURT

18. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the State Court in which this action is pending.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner(s) indicated below:

VIA E-SERVICE
And/or VIA E-MAIL
Francisco Guerra, IV
Shalimar Wallis
Julie A. Matsen
WATTS GUERRA, LLP
4 Dominion Drive
Bldg. 3, Suite 100
San Antonio, Texas 78257

and in accordance with the Texas Rules of Civil Procedure, on the 21st day of October, 2022.

/s/ Lynn S. Castagna
Lynn S. Castagna